

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:)	
)	
PATRICIA L. ELSENRATH,)	Case No. 01-11508
)	Chapter 7
Debtor.)	
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)	
J. MICHAEL MORRIS, Trustee,)	
)	
Plaintiff,)	
)	
vs.)	Adversary No. 02-5126
)	
PATRICIA L. ELSENRATH,)	
)	
Defendant.)	
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**ORDER GRANTING TRUSTEE'S MOTION FOR SUMMARY JUDGMENT
INCLUDING REVOCATION OF DISCHARGE AND MONEY JUDGMENT**

This matter comes before the Court on Plaintiff's Motion for Summary Judgment on Trustee's Complaint to Revoke Discharge and for Money Judgment (Doc. No. 16). The Trustee filed his Motion for Summary Judgment on July 17, 2003. A response was therefore due, pursuant to D. Kan. Rule 6.1, on or before August 11, 2003. In addition, the Trustee noticed the motion with an objection deadline of August 6, 2003. No objection was received.

When no response was received, the Court sent a letter dated August 12, 2003 to the Defendant informing her that the deadline to respond to the Motion to Dismiss had expired, but granting the Defendant an additional ten calendar days to respond to the Motion to Dismiss. The letter also informed her that if she failed to respond to the motion within that time, the motion would be treated as uncontested pursuant to D. Kan. Rule 7.4 and ruled on accordingly. No response has been received from the Defendant. Therefore, the Court has reviewed Trustee's Motion for Summary Judgment, and finds that facts exist to warrant granting that motion.

IT IS, THEREFORE, ORDERED THAT the Trustee's Motion for Summary Judgment

is granted. Judgment is granted for the Trustee against Defendant, Patricia L. Elsenrath, in the amount of \$1,577.00, plus interest at the judgment rate from and after May 11, 2001, together with filing fees of \$150 plus any other costs of the action.

IT IS FURTHER ORDERED that Debtor's discharge should be and is hereby revoked pursuant to 11 U.S.C. § 727(d)(3), because the Debtor refused to obey the lawful Order of this Court to turn over the pre-petition refund.

IT IS FURTHER ORDERED that the foregoing constitutes Findings of Fact and Conclusions of Law under Rule 7052 of the Federal Rules of Bankruptcy Procedure and Rule 52(a) of the Federal Rules of Civil Procedure. A judgment based on this ruling will be entered on a separate document as required by Fed. R. Bankr. P. 9021 and Fed. R. Civ. P. 58. **IT IS SO ORDERED** this ____ day of October, 2003.

THE HONORABLE JANICE MILLER KARLIN
UNITED STATES BANKRUPTCY JUDGE
DISTRICT OF KANSAS

CERTIFICATE OF SERVICE

The undersigned certifies that copies of the Order Granting Trustee's Motion for Summary Judgment Including Revocation of Discharge and Money Judgment was deposited in the United States mail, postage prepaid on this ____ day of October, 2003 to the following:

Sarah L. Newell
KLEND, MITCHELL, AUSTERMAN
& ZUERCHER, L.L.C.
301 N. Main, Suite 1600
Wichita, Kansas 67202

Patricia L. Elsenrath
917 Sommerset Meadows Drive NE
Rio Rancho, NM 87124

U.S. Trustee
301 N. Main, Suite 500
Wichita, Kansas 67202

Debra C. Goodrich
Judicial Assistant to:
The Honorable Janice Miller Karlin
Bankruptcy Judge